

Remarks/Arguments

Claims 21-40 are pending in this application, and are rejected in the Office Action of April 7, 2009. Claims 21, 25-28, 32-35 and 38-40 are amended herein to more particularly point out and distinctly claim the subject matter Applicants regard as the invention.

Re: Claims 21-24, 28-31 and 35-37

Claims 21-24, 28-31 and 35-37 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2002/0194599 by Mountain et al. (hereinafter, "Mountain") in view of U.S. Patent No. 6,396,531 issued to Gerszberg et al. (hereinafter, "Gerszberg"). Applicants respectfully traverse this rejection for at least the following reasons.

Independent claim 21, as amended herein, recites:

"A method for operating a television apparatus, the method comprising steps of:

using a tuner of said television apparatus to tune a program on a channel; and

using a processor of said television apparatus to detect an end time of said program, said processor causing said television apparatus to automatically acquire program guide information from a broadcaster within a predetermined time period before said detected end time, said predetermined time period being selected by a user of said television apparatus, and wherein a banner including information for a future program on said channel is automatically displayed in response to said program guide information." (emphasis added)

As indicated above, amended independent claim 21 recites a method for operating a television apparatus in which a processor of the television apparatus detects an end time of a program and automatically acquires program guide information from a broadcaster within a predetermined time period before the detected end time. The predetermined time period is selected by a user of the television apparatus. A banner including information for a future program on the channel is automatically

displayed in response to the program guide information. Independent claims 28 and 35 recite subject matter similar to independent claim 21.

Neither Mountain nor Gerszberg, whether taken individually or in combination, discloses or suggests each and every element of independent claims 21, 28 and 35. On pages 3-4 of the Office Action dated April 7, 2009, the Examiner alleges:

"Mountain meets all the limitations of the claim except 'television to acquire program information within a predetermined time period before said end time' and said predetermined time period being selected by a user of said television apparatus." However, Gerszberg discloses (col. 12, lines 12-15; col. 29, lines 35-45) that the server transmits new updated information to the user at the STB at a user specified time interval as represented in Fig. 1C (element 36, 22-1, 130)." (emphasis added)

As indicated above, the Examiner ostensibly admits that Mountain fails to disclose, *inter alia*, "said processor causing said television apparatus to automatically acquire program guide information from a broadcaster within a predetermined time period before said detected end time [of a program]", as recited for example by amended independent claim 21 (and similarly recited by amended independent claims 28 and 35). In an attempt to remedy these admitted deficiencies of Mountain, the Examiner then relies on Gerszberg.

In response, Applicants submit that Gerszberg is unable to remedy each of the admitted deficiencies of Mountain. In particular, while Gerszberg, in relevant part, states:

"[a]t a user specified time interval or according to a user specified schedule as per their user profile, and according to a user specified priority ranking, the information may be ordered and delivered to the user via an information push at step 1071" (emphasis added; see column 29, lines 40-45),

the reference nowhere discloses or suggests, *inter alia*, “said processor causing said television apparatus to automatically acquire program guide information from a broadcaster within a predetermined time period before said detected end time [of a program]”, as recited for example by amended independent claim 21 (and similarly recited by amended independent claims 28 and 35).

In other words, Gerszberg (like Mountain) nowhere discloses or suggests, *inter alia*, the desirability of using a detected end time of a program as a basis for determining when to automatically acquire program guide information from a broadcaster, as claimed. Here, Applicants note that the mere fact that a prior art device could (in hindsight) be modified to produce a claimed invention is not a basis for an obviousness rejection unless the prior art suggests the desirability of such a modification. See, for example, *In re Laskowski*, 871 F.2d 115, 10 USPQ2d 1397 (Fed. Cir. 1989) (“Although the Commissioner suggests that [the structure in the primary prior art reference] could readily be modified to the form the [claimed] structure, ‘[t]he mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification.’”) and *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). In this case, neither Mountain nor Gerszberg discloses or suggests, *inter alia*, the desirability of using a detected end time of a program as a basis for determining when to automatically acquire program guide information from a broadcaster, as claimed.

Accordingly, for at least the foregoing reasons, Applicants submit that claims 21-24, 28-31 and 35-37 are patentable over Mountain and Gerszberg, and withdrawal of the rejection is respectfully requested.

Re: Claims 25-27, 32-34 and 38-40

Claims 25-27, 32-34 and 38-40 are rejected under 35 U.S.C. §103(a) as being unpatentable over Mountain in view of Gerszberg, and further in view of U.S. Patent No.

6,763,522 issued to Kondo et al. (hereinafter, "Kondo"). Applicant respectfully traverses this rejection for at least the following reasons.

Kondo is unable to remedy the deficiencies of Mountain and Gerszberg pointed out above in conjunction with claims 21-24, 28-31 and 35-37. In particular, Kondo discloses a digital television electronic program guide system and method for providing updated program and system information. However, like Mountain and Gerszberg, Kondo also fails to teach or suggest, *inter alia*, "said processor causing said television apparatus to automatically acquire program guide information from a broadcaster within a predetermined time period before said detected end time [of a program]" as recited for example by amended independent claim 21 (and similarly recited by amended independent claims 28 and 35).

Moreover, Applicants further submit that Kondo fails to disclose or suggest the subject matter of dependent claims 27, 34 and 40, as alleged by the Examiner. In particular, Kondo nowhere discloses or suggests, *inter alia*, "determining if said banner is currently displayed in response to receiving said second program guide information" as recited for example by claim 27 (and similarly recited by claims 34 and 40). Although the Examiner cites column 11, lines 7-9 and 52-54 of Kondo for allegedly disclosing this feature (see pages 10, 12 and 14 of the Office Action dated April 7, 2009), Applicants respectfully submit that these cited passages of Kondo provide no such disclosure.

Accordingly, for at least the foregoing reasons, Applicants submit that claims 25-27, 32-34 and 38-40 are patentable over the proposed combination of Mountain, Gerszberg and Kondo, and withdrawal of the rejection is respectfully requested.

Conclusion

In view of the foregoing remarks/arguments and accompanying amendments, the Applicants believe this application stands in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the Applicants' attorney at (609) 734-6813, so that a mutually convenient date and time for a telephonic interview may be scheduled. No fee is believed due from this response. However, if a fee is due, please charge the fee to Deposit Account 07-0832.

Respectfully submitted,
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